

On August 31, 1938, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Palustrepine, Inc., Chicago, Ill., alleging shipment by said company in violation of the Food and Drugs Act as amended, within the period from on or about September 17 to on or about November 2, 1937, from the State of Illinois into the State of Michigan, of a quantity of San-O-Sen Antiseptic Spray that was misbranded. The article was labeled in part: "San-O-Sen Laboratories * * * Chicago."

Analysis showed that the article consisted essentially of water, pine oil, soap, and a small quantity of glycerin.

Misbranding was alleged in that certain statements, designs, and devices regarding the therapeutic and curative effects of the article, borne on the bottle labels, falsely and fraudulently represented that it was effective as an antiseptic spray for skin irritations.

The information charged that the article was also adulterated and misbranded in violation of the Insecticide Act of 1910, reported in notice of judgment No. 1690 published under that act.

On April 11, 1939, a plea of guilty having been entered, the court imposed a fine of \$100 and costs for violation of both acts.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30641. Misbranding of Vegetrates. U. S. v. Vegetrates, Inc., E. Billy Hamburg, and Joseph A. Sabol. Plea of guilty by corporation; pleas of nolo contendere by individuals. Fines: Corporation, \$150; individuals, \$60 each. (F. & D. No. 40791. Sample Nos. 15184-C, 15186-C, 36708-C, 38613-C.)

The labeling of these products bore false and fraudulent curative and therapeutic claims and false and misleading representations regarding their composition.

On July 25, 1938, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Vegetrates, Inc., Los Angeles, Calif., and E. Billy Hamburg and Joseph A. Sabol, president and vice-president, respectively, of said corporation, alleging shipment by said defendants in violation of the Food and Drugs Act as amended, within the period from on or about May 5 to on or about June 29, 1937, from the State of California into the States of Ohio, New York, and Illinois of quantities of Vegetrates which were misbranded. The articles were labeled respectively: "Formula No. D-44 [or "H-410" or "A-417"]."

Analyses of samples showed that Formula D-44 consisted essentially of dried vegetable material including tomato, each tablet representing approximately 0.08 grain of calcium, 0.05 grain of phosphorus, 0.003 grain of iron, 0.1 grain of sodium, 0.04 grain of magnesium, 0.05 grain of sulfur, and 0.12 grain of chlorine; that Formula No. H-410 consisted essentially of material derived from vegetables, including leafy vegetables and garlic, each tablet containing phosphorus compounds corresponding to a total of 0.12 grain of phosphorus; and that Formula No. A-417 consisted essentially of dried vegetable material, each tablet representing 0.002 grain of iron, 0.09 grain of calcium, and 0.03 grain of phosphorus.

The articles were alleged to be misbranded in that the following statements on their respective labels were false and misleading, since the said statements represented that the articles when consumed according to directions would supply significant and important amounts of certain minerals; whereas the articles, if consumed in accordance with the said directions, would supply only slight amounts of the minerals named: (Formula No. D-44) "Vegetrate Formula No. D-44 is composed of the concentrates of raw vegetables; are so processed and proportioned as to make available organic calcium, phosphorus, iron, sodium, magnesium, sulphur and chlorine. Directions Adults: Three or four tablets, three times a day"; (Formula No. H-410) "Composed of the concentrates of vegetables, selected and grown with particular regard to a high phosphorus content. Directions Adults: Two to three tablets, three times a day"; and (Formula No. A-417) "The actual breakage of the cellulose cells make available organic iron, calcium, and phosphorus. Directions Adults: Three or four tablets, three times a day." Additional misbranding of Formula No. H-410 was alleged in that the statement "Garlic Tablets," on the label, was false and misleading, since it represented that the sole component of the article was wholly derived from garlic; whereas the entire composition of the article was not wholly so derived.

Misbranding was alleged further in that the coined names or symbols, i. e., "Vegetrate Formula No. D-44," "Vegetrate Formula No. H-410," and "Vegetrate

Formula No. A-417," appearing on the respective labels of the articles, were devices which falsely and fraudulently represented their curative or therapeutic effects, since the said coined names or symbols meant to purchasers that the articles were effective medicinally in the treatment of (Formula D-44) diabetes, effective to cause the pancreas to function so as to secrete sufficient insulin to burn up the sugar in the human body and thus to prevent diabetes and to check the progress of that disease, effective to control diabetes in the stage called insipidus, effective to restore normal balance and to increase the secretion of natural insulin by supplying the vital minerals to effectuate such restoration and such balance; (Formula No. H-410) effective medicinally in the treatment of high blood pressure, effective as a vaso-dilator and as a diuretic, and that it was capable of imparting to the human body the full power of two active dietary adjuvants in a concentrated and quickly available form; effective medicinally in the treatment of asthma and hay fever, and that it was capable of furnishing essential, selected organic minerals necessary in maintaining a balance of alkaline reserve; and such names or symbols had attained such meanings to purchasers as a result of the following facts and circumstances: booklets entitled "Wrong Diet The Curse of the Age," a supply of which was furnished by the consignor to the consignee and was distributed to customers and prospective customers, contained on page 31 the following statements: "D-44 * * * Carbohydrate Tolerance (Diabetic)," "H-410 Blood Pressure (High)," and "A-417 * * * Respiratory Irritation (Asthmatic)"; and said booklets also contained the above-mentioned claims regarding the curative and therapeutic effects of the respective articles. Moreover, the labeling theretofore [1935] used on the respective articles contained the following wording: "Vegetrate Formula No. D-44 Highly valuable as a Food Adjuvant for the Diabetic"; "Vegetrate Formula No. H-410 A Food Recommended as a Dietary Adjuvant in the Reduction of Hypertension"; and "Vegetrate Formula No. A-417 A Food Concentrate Recommended Highly as a Nutritional Adjuvant in the Dietary Care of the Asthmatic Hay Fever."

On April 27, 1939, a plea of guilty having been entered on behalf of Vegetrates, Inc., and pleas of nolo contendere having been entered by Hamburg and Sabol, the court imposed fines of \$150 against the corporation and \$60 against each of the individuals.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30642. Adulteration and misbranding of cotton swab applicators. U. S. v. 34 Cartons of Sanitary Cotton Swab Applicators. Default decree of condemnation and destruction. (F. & D. No. 45160. Sample No. 17577-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be contaminated with viable micro-organisms. It was labeled to indicate that it contained a substantial amount of boric acid, whereas it contained but a trace of boric acid.

On April 8, 1939, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 34 cartons of cotton swab applicators at Baltimore, Md.; alleging that the article had been shipped on or about February 13, 1939, by Eagle Druggists Supply Co., Inc., from New York, N. Y.; and charging adulteration and misbranding in violation of the Food and Drugs Act.

Adulteration was alleged in that the purity of the article fell below the professed quality or standard under which it was sold, namely, (carton) "Made from sterilized absorbent cotton"; whereas it was not sterile but was contaminated with viable micro-organisms.

Misbranding was alleged in that the statement on the envelope, "Sanitary applicators * * * (borated)," the statements on the carton, "Sanitary cotton swab applicators," "Made from sterilized absorbent cotton and dipped in boric acid," and "Sanitary cotton swab applicators are approved and recommended by doctors and nurses"; and the designs of a surgeon, a nurse, a man applying an applicator to the mouth of a boy, and of a nurse applying an applicator to the eye of an infant, were false and misleading when applied to the article, which was not sterile and which contained but an inconsequential trace of boric acid.

On April 29, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*